

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION**

KEITH COOPER, )  
                        )  
                        )  
Plaintiff,         )         Case No. 3:17-CV-00834-PPS-MGG  
                        )  
v.                     )  
                        )  
CITY OF ELKHART, STEVE REZUTKO,         )  
EDWARD WINDBIGLER, STEVEN                 )  
AMBROSE, and TOM CUTLER, in their         )  
individual capacities,                         )  
                        )  
Defendants.         )

**DEFENDANTS' RULE 12(c)  
MOTION FOR JUDGEMENT ON THE PLEADINGS**

Defendants, the City of Elkhart, Steve Rezutko, Edward Windbigler, Steven Ambrose and Tom Cutler, by counsel, move for judgment on the pleadings pursuant to Fed. R. Civ. P. 12(c) for the following stated reasons:

1. The pleadings are closed and no material facts remain at issue on the Defendants' defenses that the plaintiff's claims under 42 U.S.C. §1983 were not filed within the applicable statute of limitations, are barred by the holding of *Heck v. Humphrey*, and that it is entitled to immunity against claims based upon the conduct of its officers.
2. The pleadings are closed and no material facts remain at issue on the Defendants' defenses that the plaintiff's claims under state common law were not filed within the applicable statute of limitations, are barred by his failure to file the applicable

notice of tort claim within 180 days after the alleged losses occurred, and that it is entitled to immunity against claims based upon the conduct of its officers.

3. In support of this Motion, the Defendants file an accompanying Memorandum of Law for the Court's consideration.

WHEREFORE, for the reasons stated, the Defendants, the City of Elkhart, Steve Rezutko, Edward Windbigler, Steven Ambrose and Tom Cutler, respectfully request the Court grant the City's motion and enter judgment on the pleadings.

Respectfully Submitted,

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By /s/Andrew S. Williams

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AMBROSE, and TOM CUTLER, in their    )  
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                    )  
Defendants.       )

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**PROOF OF SERVICE**

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I hereby certify that on the 23<sup>rd</sup> day of August, 2018 I served a complete copy of Defendants' Motion to Dismiss and this Proof of Service with the Clerk of the Court CM/ECF system:

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